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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,573	05/14/2001	Ian Reginald Thompson	WAT0118	2803

7590 11/05/2003

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EXAMINER

REDMAN, JERRY E

ART UNIT PAPER NUMBER

3634

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,573

Applicant(s)

THOMPSON ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 175, 176, 247 and 248 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 291-294 is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) See Continuation Sheet is/are objected to.
- 8) ☒ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Continuation of Disposition of Claims: Claims pending in the application are 147-198,200,202-210,214-270,272,274-282,285 288 and 290-297.

Continuation of Disposition of Claims: Claims rejected are 147-156,166,167,180-185,187-193,200,202,203,206-208,214-216,218-227-229,232,237-239,252-257,259-265,272, 274, 275,278-280,285-288,290 and 295.

Continuation of Disposition of Claims: Claims objected to are 157-165,168-174,177-179,186,194-198,204,205,209,210,217,230,231,233-236,240-246,249-251,258,266-270,276,277,281,282,296 and 297.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 147-153, 156, 166, 167, 180-185, 187-193, 200, 206-208, 214, 215, 218-226, 229, 232, 238, 239, 252-257, 259-265, 272, 278-280, 285-287, and 290 are further rejected under 35 U.S.C. 102(b) as being anticipated by Swenson et al. Swenson et al. disclose a gate comprising a first support (11), a second support (12), a cable (17) extending therebetween, , a drive and pulley winch mechanism having a line (the portion within the support) connected to the cable (17) which drives the cable to a blocking and unblocking position, a bar (13) pivotally connected on each side of the support, and a solar or electrically power system,

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 154, 155, 202, 203, 216, 227, 228, 237, 274, 275, 288, and 295 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Swenson et al. All of the elements of the instant invention are discussed in detail above except providing the following: 1) the line and cable to be 1.6mm and 10mm respectively and synthetic,

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2) the elongate member to be 550mm or 750mm above the ground, and 3) a locking means to be a padlock. With respect to claims 154, 155, 227, 228, and 237, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the line and cable of Swenson et al. to be 1.6mm and 10mm respectively since it is a matter of design choice to provide the proper diameter of line depending on the span in which the gate is to extend and one of ordinary skill in the art would provide the line and cable to have the proper engineering strength to perform at the proper level and to be formed of a synthetic material since synthetic material is rust resistant and cheaper to manufacture. With respect to claims 202, 203, 274, and 275, it would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the elongate member of Swenson et al. to be positioned above the ground at 550mm or 750mm since it would have been a matter of design choice to provide the proper height such that most vehicles would engage the cable as it extends across the supports even due to sagging and the gate of Swenson et al. would operate equally as well with the cable at a height of 550mm or 750mm.

Claims 291-294 are allowable.


Claims 157-165, 168-174, 177-179, 186, 194-198, 204, 205, 209, 210, 217, 230, 231, 233-236, 240-246, 249-251, 258, 266-270, 276, 277, 281, 282, 296, and 297 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. The phraseology "for...." fails to positively recite the claimed invention and therefore fails to limit the applicant's invention. For example, does the control means couple and decouple the drive means or not? There are several others "for..." clauses, which it appears that the applicant is relying on as further limiting the claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.


Jerry Redman
Primary Examiner